

COMMITTEE ON JOINT SCHOOL BUILDINGS

February 28, 2006

4:30 PM

Chairman Beaudry called the meeting to order.

The Clerk called the roll.

Present: School Committee Members Beaudry, Herbert, Gelinas
Aldermen Roy, Forest

Absent: Alderman Thibault

Messrs.: Kevin Clougherty

Deputy City Clerk Johnson stated item 3 is a motion to recess to non-public session except it is my understanding that the Chairman wishes Mr. Clougherty to address the committee first in public session.

Chairman Beaudry requested Mr. Kevin Clougherty come forward and provide us with the information you have and talk about the contingency fund, please.

Mr. Kevin Clougherty, Finance Officer, stated the Board of Aldermen at the last regular meeting of the Board had asked the City Solicitor and the Finance Officer to review the design/build project with an eye towards the contingency fund and how it could be used and how it has been used to date. This is a letter that's going back to the Board of Mayor and Aldermen, so some of the Aldermen might already have a copy of it or have seen it. It's a letter to the Aldermen informing them of our findings and we thought where you're meeting tonight that it might be helpful if we brief you on what the conclusions were. The bottom line is there's been 34 requisitions against the budget and all of the money that has been spent out of the contingency fund to date is allowable. There weren't any issues with respect to any of the actual payments that have been made. We're okay with that. The issue that we have is going forward. There was some discussion and indication on the 34th requisition that there might be some desire to use some of the funds to put in petitions in some of the schools for the open floor concept and that is just not consistent with the design/build document so we've recommended some other ways that that could be funded and have provided that to the Highway Department...we talked to Bill Sanders at the School District and I think they're in agreement with that approach that we're recommending and we'll move forward

on that front. The other thing that the Board had asked us to look at was the use of any...what you might call a bond balance at the completion of the project...in other words if there's money left in contingency at the end of the project could that money be reallocated for other uses. The bond documents are quite clear that any balances in the construction fund have to be deposited into the interest fund and the interest payments for the bonds will be made with any balance so it's not like a general obligation bond where the Board can sometimes say well we have this...in this particular case where it's a revenue bond and because we had all those contracts that we were dealing with from the School District the requirement is that we pay down the interest with anything that's left after the project is completed.

Chairman Beaudry asked are there any questions of the committee.

School Committee Member Herbert stated this is a revenue bond because the District takes in tuition revenue.

Mr. Clougherty stated it takes in tuition revenue, we also included the state revenue for the reimbursements for the School Building Fund, the interest that was earned on all those as revenue. There are two sections of statutes. One is the Finance Law...that allows you to do your General Obligation Bonds and then there's a separate section for revenue bonds which is RSA 33B...they're a little different in what their requirements are. We issued the bonds for the design/build as revenue bonds under 33B.

School Committee Member Herbert stated the other technique for funding...if we have the money available...funding the closing in of the open concept could you explain that.

Mr. Clougherty stated of all the members here...you probably remember the SCIP accounts that were set up in prior years that allowed for some maintenance improvements...you have some balances in those accounts...that appears to us to be an ideal application of those funds so we have alerted the district and Frank (Thomas) as to the balances that are available in some of those accounts and said that they should be reallocated for that purpose.

School Committee Member Herbert stated if at the end of this bond project...

Mr. Clougherty asked which one?

School Committee Member Herbert replied Gilbane, the design/build project...and we've settled with Gilbane, whatever and then say there's a million and a half remaining on this revenue bond can that money be treated the same way?

Mr. Clougherty stated anything that's left after the project pays down interest. The way it will work is it will reduce the School District's debt service during the particular year that it's applied.

School Committee Member Gelinas stated since you brought up the SCIP accounts do you recall in total the amount of money that was left over from those accounts?

Mr. Clougherty replied I think the one we were looking at had a little over \$200,000. So, it was enough to do the design and some of the architectural work, it's not going to be enough obviously to do the work itself but it will provide you the continuity, I think you were looking for to get that work done in a timely basis. And our review of that is that that would be okay.

Chairman Beaudry stated I have a couple of questions, Kevin, I have the standard form agreement between owner and contractor (Gilbane) and it specifically states that the design and construction of a city-wide schools renovation addition program as more fully described in Exhibit I attached herein...so, to me, if we're doing renovations/additions, it would be part of this bonding and when you say...the key word you say is "at the end of the project"...if we choose and I say we the Joint Buildings and Sites chooses to expend that money on closing in our schools the project hasn't really ended yet. Wouldn't it end when we decide that we're finished.

Mr. Clougherty stated there's two ways when it ends. One is that there's a requirement that a certificate be signed by the Finance Officer and one be signed by the Highway Director. So, the project will be completed when those certificates are received by the trustee and that's when the actual flow of money will go. Prior to that you've got to make sure that the project runs according to the specifications. The document that you're talking about is a pretty general statement and you may want to try and be liberal in the interpretation of this. But, it's very hard for me having signed all the documents and go down to Wall Street and say we entered into this project and were three-quarters of the way through it and now we're bringing in a new engineer to take a look at a new wall that was never before talked about or a series of walls...that clearly is outside the scope of what was envisioned here.

Chairman Beaudry stated we've done that already in this project...at Central High School, case in point...we put in brand new bleachers over there that weren't part of the project but when we found out that the old bleachers were not sufficient we put in new bleachers.

Mr. Clougherty stated but you put in new bleachers to replace the old bleachers...you're not bringing in a whole new redesign of a facility because you don't like the way it was originally designed...it really crosses the line and I don't think we would be able to justify that. Remember, when we sign these documents we're signing them under penalty of perjury and I can understand where you're coming from but if there's an issue you may have the *Union Leader* come and give you a hard time, I'm going to have the U. S. Attorney General, the IRS, the SEC come to my house. So I take a particularly conservative look at these documents and how I'm willing to sign off on them and I think to date we've really kept things within the nexus of the project and it's only the partitions issue going forward that I think we need to take a look at.

Chairman Beaudry stated I just hope that you realize at least in my aspect of this we weren't going to spend the money for the walls until the project was complete and whatever money was left in that contingency we would utilize for that.

Mr. Clougherty stated absolutely and I understand that and our intent here is to...the reason I asked to come in and speak tonight is because I wanted to come at the earliest possible time and not wait until your next committee meeting or wait until something else could be spent...I wanted to come in up front and be honest with you and say this kind of crosses the line here, we know we haven't spent any money, we think we have another alternative, let's go this way and everything's on tract, we're okay.

Chairman Beaudry stated on the school side of it that's our number one priority...to close these buildings in. We were hoping that there was going to be about \$2.5 million left in that contingency. If what you say is factual and that money has to go into the bond debt then is there an avenue for the School District to get sufficient money to at least close in the two schools that we wanted to do this year being Parker Varney and Highland Goffs Falls.

Mr. Clougherty replied again that's part of the CIP process and I'm not going to preclude the Aldermen or the Mayor from making their determinations on the CIP but understand what I'm saying is that if in another year...it probably won't be the upcoming fiscal year but in the following fiscal year when this project is closed out if by some stretch there is still \$2 million left in contingency and that year the debt service for the School District will not have to be \$5 million, it can be \$3

million. There is a request in I understand to fund those but the determination by the Boards to approve that. But just understand that because that goes into that interest payment the capacity to do other projects as part of the CIP even though it can't be part of this bond issue still has a possible consideration, do you understand that.

School Committee Member Hebert stated I think I do, I'm not sure I do but if you say there's a \$1.5 to \$2. Million left over after we've completed our general work that gets applied to pay down that bond.

Mr. Clougherty stated that's the interest.

School Committee Member Herbert stated just the interest, okay, so you can't make a principle payment on it...the effect of that would be in subsequent years, is that what you're saying.

Mr. Clougherty stated that depends on the timing of when the project is closed and the budget process but yes it could be...it certainly is not going to be in 2007.

School Committee Member Herbert stated so our avenue if we wanted to have that project at least to do the two schools again that would be this fiscal year because the construction season would start...we know we can fund the documentation and what not in order to go to bid and all that but if we get a bid back in "X" dollars we have to appeal to or put some sort of request in front of the Aldermanic CIP Committee which in itself could be another mini bond compared to what we've been doing but that would be the procedure we would need to do along the School District side in order to fund it. Now, what's the timing involved in that, Kevin?

Mr. Clougherty replied remember each year the purpose of the CIP is to take a long horizon so you're not only looking at...the CIP that's adopted for FY2007 will be the approvals of those projects for that year but could also be looking out at to your priorities over the next several years so that there's some type of a sequencing of what's envisioned for debt service. What I was responding to is what the Chairman has said that if you had thought that you had \$2 million left you'd like to apply that. If you have that \$2 million left it will be applied to interest but because you're applying it to interest you won't have to pay as much interest that year and perhaps going forward so that's going to have an impact on your capacity to do other borrowings or depending upon how the Board wants to fund it...cash or something along those lines.

School Committee Member Herbert asked has the School Board been informed...what is our bonding capacity?

Mr. Clougherty replied we had a meeting this afternoon with Bill Sanders and Karen DeFrancis and we spoke to them about what your current outstanding amount is which I think is \$11.399 million in debt service for '07 and that's based on the bonds that have already been issued. There are some bonds that are already authorized in what has been expenditures for it and one of them I think is Clem Lemire for another \$4-\$4.4 million. Those will be issued if we do a bond sale later this fall. So, the debt service on that would possibly be one interest payment of about \$300-\$400,000...that has to be added to the \$11 million and anything else that will be in the CIP this year that's going to have an immediate drawdown on cash will also have to be included in that. So, we had a pretty lengthy discussion this afternoon about what the options were. I provided them with some amortization schedules based on the current interest rates with the understanding that that's no guarantee of what the rates are going to be when we issue but it's our best number right now. So, we did that for the \$4.4 million that's already out there and we gave them one for a million dollars so that for each million dollar that gets approved and a bond issue what that translates to in debt service for the particular year, so you can use that as a guide in your deliberations at the School District.

Chairman Beaudry in reference to the \$11 million figure asked is that an annual debt service burden we now have?

Mr. Clougherty stated right. All the bonds that have been issued...not only the design/build but everything.

School Committee Member Herbert stated so anything that we would request going forward the number that I'm looking for is what can we reasonably add to that annual \$11 million interest going into '07, going into this cycle?

Mr. Clougherty replied what we talked to the Board of Aldermen about is that they have the ability to issue about \$20 million every couple of years and that's because we're retiring about \$20 million in principle every couple of years. The only thing that is going to change your ability to do that is if your valuation changes. We'll know the answer to that relatively quickly as part of the April process the reval is going through. So, if your valuation is to go up substantially, particularly if it goes up in commercial areas versus residential the city would be wealthier, be able to have a better capacity to issue more than the \$20 million. The other thing that the credit issuers look at is the income per capita...we're monitoring that closely with the state as well. So, as we get out into the end of this month, beginning of next month we'll have better information about what those numbers are and what the capacity is. But, in the absence of that information it's still operating under that same level.

School Committee Member Herbert asked what is the number of bonded...what's going to be our bond number we can reasonably look at to add in '07...I know there's an \$11 million...is that the city and the school?

Mr. Clougherty replied that's just the School District.

School Committee Member Herbert stated so if we're running at \$11...visibility being what it is I would think you can at least drop out the number of years obviously...but I'm looking for that number that I can have in my mind and go back to the School District and start weeding out those items and making the hard decisions...so is it another \$4 million...and that has to guide us.

Mr. Clougherty stated I understand your situation but understand it's not my number to give. What we do is we advise the Board of Aldermen, the appropriating body of what their capacity is and they have to wrestle with a whole array of priorities not just the School District but Police, Fire, vehicles and everything else and they have to make that all fit within the affordability to keep their credit rating.

Alderman Forest stated I know Chris is on a roll here...it was getting interesting...but, I'm just wondering if we're going beyond what this committee is about right now...I'm asking a point of order question or something...are we going beyond what this Joint School Buildings Committee is, I think we're starting to get into regular School Committee business here.

Chairman Beaudry stated I would agree. I do have one question though...whatever money is left over in contingency you're going to put it into the interest...what does that do to our debt service...is that going to eliminate some of the debt service on the school side.

Mr. Clougherty replied right it will lower the interest payment...it has to be applied toward the interest payment. So, does that happen the next year or what's the best way...do you want to push it out we can talk about that...a couple of different ways to apply it. My understanding is having that discussion now when

a project isn't done and I expect it will be affected by more change orders that are reasonable...till we get closer to completion and it's not just the balance in contingency, it's the balance in the project...anything that's left in those other construction line items is all going to go to interest.

Chairman Beaudry stated I'm having a hard time as a committee member...where do you draw that line of what's acceptable and what's not accept when you're doing a change order? Is it a subjective opinion or is it something...because I looked through the contract, I couldn't find anything where it says we couldn't add...we've done a lot of alterations from the existing contract...we have over \$5.8 million or \$5.6 million and we're down roughly to \$3 million so we've spent half the contingency money on change orders...where's the line, where do you draw the line.

Mr. Clougherty stated again I think there has to be what they call a relationship between the expenditure and the original purpose. If you're in...they talked about Beech Street School...and you're looking at all of the improvements down there and you find that the alarm system is not adequate and you have to replace half of it then there's a relationship there...do all of it but if you go in and say there's no system there to begin with and we're going to bring in something new that hasn't been part of the original proposal that's different. So, you have to take a look at what was the original layout of the RFP and you have to go back and look at what work has been done and to date as I say I think everything with the exception of the partitions seems to pass muster and I'm okay with that.

Chairman Beaudry asked are there any further questions from the committee. Thank you very much, Kevin.

Chairman Beaudry addressed item 3 of the agenda:

On motion of Alderman Roy, duly seconded by School Committee Member Herbert, it was voted to recess the regular meeting to enter into non-public session pursuant to 91-A:3 II (e): Consideration or negotiation of pending claims or litigation which has been threatened in writing or filed against the body or agency or any subdivision thereof, or against any member thereof, or against any member thereof because of his membership in such body or agency, until the claim or litigation has been fully adjudicated or otherwise settled.

A roll call voted was taken to enter into non-public session: School Committee Members Beaudry, Herbert, Gelinas and Aldermen Roy and Forest voted yea; Alderman Thibault was absent. The motion carried.

Alderman Roy stated I would ask with the Chair's approval if we could add Mr. Clougherty to our staff joining us. Thank you.

Chairman Beaudry stated actually Aldermen can stay.

On motion of Alderman Forest, duly seconded by Alderman Roy, it was voted to re-enter into public session.

On motion of Alderman Roy, duly seconded by School Committee Member Gelinas, it was voted to seal all documents presented in non-public session.

Alderman Forest stated I have one item before we adjourn. The Clerk reminded me that I have to talk to Frank...the last few meetings a lot of us have talked about the air conditioning that's running in this building. Carol tells me that they call PBS and everyone else and now I'm asking you can you do something about the air conditioning in the building...it's like 20 degrees out there.

There being no further business to come before the committee, on motion of School Committee Member Gelinas, duly seconded by Alderman Roy, it was voted to adjourn.

A True Record. Attest.

Clerk of Committee